



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,261	03/23/2004	Daniel W. Rodlin	03-113	4184

27219 7590 08/25/2010
LAWRENCE S. COHEN, ESQ.
LAW OFFICE OF LAWRENCE S. COHEN
10960 WILSHIRE BLVD
SUITE 1220
LOS ANGELES, CA 90024

EXAMINER

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
----------	--------------

3635

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

08/25/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

COHENLAW@COHENIPLAW.COM

Office Action Summary	Application No. 10/808,261	Applicant(s) RODLIN, DANIEL W.	
	Examiner ROBERT J. CANFIELD	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 1-42, 45, 46 and 48-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43 and 44 is/are rejected.
- 7) ☒ Claim(s) 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. This Office action is in response to the amendment filed 06/16/10. Claims 1-60 are pending with claims 1-42, 45, 46 and 48-60 having been withdrawn from consideration for being directed to non-elected embodiments.
2. The replacement drawing sheets filed 06/16/10 are accepted.
3. As noted in the last Office action, the title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The new title should reflect that a method of making a prefabricated relief form is being claimed.
4. The disclosure is objected to because of the following informalities: the first sentence of the specification recites that the application is a CIP of application serial number 10/679,720 which is DIV of application serial number 10/679,720. It is unclear how application serial number 10/679,720 can be a DIV of itself. Further, the specification should be amended to reflect that application serial number 10/679,720 is now abandoned.

Appropriate correction is required.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3635

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,465,756 to Schepis in view of Applicant's disclosure.

Schepis provides positioning first and second typical corner aids (B) on an elongated fixture (A) and fastening the corner aids together with a clip.

Schepis fails to provide that the corner aids are of the type comprising connected wire.

Applicant discloses that connected wire type corner aids are commercially available for example as shown in figure 17a of the instant application.

It would have been obvious to one having ordinary skill in the art at the time of the invention that the known wire type corner aids disclosed by application could have been substituted for the metal lath type corner aid provided by Schepis. There would have been no unexpected or unpredictable results obtained from substituting a connected wire type corner aid for an expanded lath type corner aid. The two corner aids would function in substantially the same manner.

Schepis further fails to provide that the fastening is accomplished by applying glue at select intervals [claims 44].

It would have been obvious at the time of the invention to one having ordinary skill in the art that an adhesive such as glue could have been applied to further secure the corner aids to prongs/clips of Schepis. There would have

Art Unit: 3635

been no unexpected or unpredictable results obtained by providing glue at selected intervals.

7. Applicant's arguments filed 06/16/10 have been fully considered but they are not all found persuasive.

Applicant indicates that the error with respect to continuity has already been corrected. The examiner finds no record of any amendments having been made to the specification of the instant application. Amendments that may have been made in parent applications do not carry forward to children applications. Applicant then attempts to amend the specification within the remarks section of the response. This is not in compliance with 37 CFR 1.121. Also note that applicant references paragraphs by number yet the originally filed specification was not filed with paragraph numbering.

The response filed 06/16/10 failed to respond to the title objection set forth in the previous Office action. This objection has been repeated.

Applicant's arguments with respect to Schepis are not found persuasive. Applicant argues that since the clips are welded to member (A) the assembly is made at the site and that claim 43 assembles the parts without the use of a wall. This is not found persuasive because there is nothing in the instant claims to preclude channel (A) of Schepis as meeting the limitation of the "elongated fixture" of claim 43. There is nothing in the claims requiring the relief form is removed from the fixture.

Art Unit: 3635

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. CANFIELD whose telephone number is (571)272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rich Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert J Canfield
Primary Examiner
Art Unit 3635

/Robert J Canfield/
Primary Examiner, Art Unit 3635